IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

WRIT PETITION NO.1879 OF 2005

Shri.Liladhar Pandurang Tari ..Petitioner

Vs.

Jhon Gabriel Narhona and Ors. ..Respondents

...

Mr.S.P.Prabhu with Mr.G.H.Keluskar for Petitioner

...

CORAM : B.H.MARLAPALLE,J.

DATE : APRIL 29,2005

P.C.:

1. Heard the learned counsel for the Petitioner who is impleaded as one of the defendants in Special Civil Suit No. 28 of 2003. He had filed an application at Exh.24 in the said Special Civil Suit on or about 20.10.2004 praying for taking the written statement on record by setting aside the no written statement order passed on 23.4.2004 by the learned Civil Judge S.D. Sindhudurg-Oras.

2. The trial Court considered the application and held that no case was made out pointing out any exceptional circumstances to entertain the written statement filed so belatedly.

3. The application stated that on account of demise

of the applicant's father and brother, the entire family's responsibility had befallen on the applicant and due to some misunderstanding the applicant could not meet his advocate so as to file written statement in time.

4. Admittedly, the applicant's father died on 2.2.2002 and the brother died on 4.8.2002. The suit was instituted on or about 15.5.2003 and the notice was served on the Petitioner on or about 17.5.2003. No written statement order was passed on 23.4.2004 and still the Petitioner failed to take appropriate steps even for a period of six months further. There was no case made out regarding any special or exceptional circumstances so as to condone the delay in filing the written statement and therefore, in such circumstances, the order passed by the trial Court cannot be termed as perverse or patently erroneous so as to call for interference in a petition under Article 227 of the Constitution of India.

5. Hence, the petition is rejected summarily.

[B.H.MARLAPALLE,J.]